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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,082	06/28/2001	Cornelis Pieter Janse	NL 000363	5314

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER

MICHALSKI, JUSTIN I

ART UNIT	PAPER NUMBER
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2644

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DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/894,082

Applicant(s)

JANSE ET AL.

Examiner

Justin Michalski

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/28/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, and 5-12 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.6.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities: "...arranged for averaging a calibration factor is averaged" is unclear. Appropriate correction is required. The office is interpreting this phrase as, "arranged for averaging a calibration factor".

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6, 8, 11, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 12, it is unclear if "a microphones" as written is meant to refer to a singular or a plurality of microphones.

Claim 6 recites the limitation "the averaging means" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the output of the squaring and summation means" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "the calculation of square root of the desired power divided by the actual power" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5, 7, 10, and 12 rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US Patent 5,029,215).

Regarding Claim 1, Miller discloses a device (Figure 4) for calibration of a microphone (microphones 201 and 202), comprising: a loudspeaker (speaker 203) for converting a loudspeaker input signal into sound; a microphone (microphones 201 and 202) for converting received sound into a microphone output signal; and calibration means (computer 412 and amplifiers 410 and 411) for calibrating an output power of the microphone relative to a desired power level (Miller discloses automatic adjustment of the microphone output, i.e. desired power level) (Column 4, lines 36-38), said calibration means (computer 412) comprising impulse response estimating means for estimating an acoustic impulse response of the microphone by correlating the microphone output signal (input from 414 to 412) and the loudspeaker input signal (signal from computer 412 to speaker 203) when the microphone receives the sound from the loudspeaker, whereby the output power of the microphone is estimated (Although Miller does not explicitly disclose the use of impulse response, Miller does disclose the use of the obtaining a characterization (i.e. output power estimation) of the microphone's response

pattern (Col. 4, lines 49-50) where one of ordinary skill in the art would recognize that an impulse response is a type of response pattern).

Regarding Claim 2, Miller further discloses frequency of excitation may be several frequencies (i.e. direct part) of the microphones characterization response pattern.

Regarding Claim 5, Miller further discloses a relating means (computer 412) for relating a power level of the diffuse microphone response (signal from 414 to 412) with a desired power level (level of automatic adjustment disclosed Col. 4, lines 37-38)

Regarding Claim 7, Miller further discloses whereby the desired power level has a predetermined value (sensitivity balance between microphones 201 and 202, Column 2, lines 5-6) for absolute calibration of the microphone.

Regarding Claim 10, Miller discloses the outputs of microphones 102 and 202 (i.e. calibration factors) into adder 413 (i.e. average of the calibration factors).

Regarding Claim 12, Miller discloses a method of calibrating microphones (201 and 202) using the device of figure 4.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US Patent 5,029,215).

Regarding Claims 3 and 9, Miller further discloses a bandpass filter (Col. 5, lines 38-39). It is well known in the art that a bandpass filter can be produced by a lowpass filter in series with a highpass filter. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a lowpass and high pass filter for creating the bandpass as disclosed by Miller.

Allowable Subject Matter

7. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gifford et al. (US patent 5,841,876) discloses a bandpass filter made of a lowpass and highpass filter (Col. 5, lines 25-30).

Graumann (US patent 5,844,994) discloses microphone calibration using averaging.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Michalski whose telephone number is (703)305-5598. The examiner can normally be reached on 8 Hours, 5 day/week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JIM


XU MEI
PRIMARY EXAMINER